

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN – SOUTHERN DIVISION

JENNIFER BUCKINGHAM and JEFF
BUCKINGHAM, *her husband*,

Plaintiff,

vs

Case No. 2:20-CV-
Hon.

VINCENT E. CERBINI, and HOUSTON
SHUTTERS, LLC;

Defendants.

THE SAM BERNSTEIN LAW FIRM, PLLC
By: JOSEPH J. CEGLAREK II (P56791)
Attorneys for Plaintiff
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There is no other civil action between these parties arising out of the same transaction or occurrence as alleged in this Complaint pending in this Court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a judge, nor do I know of any other civil action not between these parties, arising out of the same transaction or occurrence as alleged in this Complaint that is either pending or was previously filed and dismissed, transferred, or otherwise disposed of after having been assigned to a judge in this Court.

/s/ Joseph J. Ceglarek, II
JOSEPH J. CEGLAREK, II (P56791)

COMPLAINT AND JURY DEMAND

NOW COMES the Plaintiffs, JENNIFER BUCKINGHAM and JEFF BUCKINGHAM, *her husband*, by and through their attorneys, THE SAM BERNSTEIN LAW FIRM, PLLC, by JOSEPH J. CEGLAREK II, and for their cause of action against the Defendants, VINCENT E. CERBINI and HOUSTON SHUTTERS, LLC and hereby show unto this Honorable Court as follows:

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GENERAL AVERMENTS

1. That the Plaintiffs, JENNIFER BUCKINGHAM and JEFF BUCKINGHAM, her husband, were/are residents of the City of Dundee, County of Monroe, State of Michigan.

2. That upon information and belief and for all times relevant herein, the Defendant, VINCENT E. CERBINI, was/is a resident of the City of New Port Richey, Pasco County, State of Florida.

3. That upon information and belief and for all times relevant herein, the Defendant, VINCENT E. CERBINI, was/is an employee/agent/servant (ostensible or actual) of the Defendant HOUSTON SHUTTERS, LLC (HOUSTON) acting within the course and scope of his employment/agency while doing business within the City of Saline, County of Washtenaw, State of Michigan.

4. That upon information and belief and for all times relevant herein, the Defendant, HOUSTON, is a foreign corporation with a home business located in Houston, Texas but did and does business in City of Saline, County of Washtenaw, State of Michigan.

5. That upon information and belief and for all times relevant herein, the Defendant, HOUSTON, was and is licensed to do business within the City of Saline, County of Washtenaw, State of Michigan.

6. That all the acts, transactions and occurrences arose in City of Saline, County of Washtenaw, State of Michigan.

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7. That the amount in controversy in this litigation exceeds the sum of Seventy-Five Thousand (\$75,000.00) Dollars exclusive of costs, interest and attorney fees.

8. That for all times relevant herein and upon information and belief, the Defendant, HOUSTON, was the lessor/owner of a 2015 GMC Box Truck with a VIN#1GD072CF1F1170440 and registered with the State of Minnesota bearing license YBX0624.

9. That for all times relevant herein and upon information and belief, the Defendant, HOUSTON, authorized, permitted and consented for the Defendant, VINCENT E. CERBINI to use, operate and/or drive said truck within the course and scope of employment/agency.

10. That venue in this matter is proper pursuant to 28 U.S.C. sec. 1391.

11. That jurisdiction in this matter is proper pursuant to diversity, 28 U.S.C. sec. 1332.

**COUNT I—NEGLIGENT OPERATION
OF A MOTOR VEHICLE**

12. Plaintiffs, JENNIFER BUCKINGHAM and JEFF BUCKINHAM, *her husband*, hereby adopts and incorporates by reference as though fully set forth herein, each and every paragraphs/allegation set forth above in the Complaint.

13. That on or about September 19, 2019, the Plaintiff, JENNIFER BUCKINGHAM, was a restrained owner/operator of a 2015 Chevrolet Silverado motor vehicle bearing the Michigan license plate number DBL0077.

14. That for all times relevant herein, the vehicle in which the Plaintiff JENNIFER BUCKINGHAM was lawfully travelling eastbound on Michigan Avenue (US-12) in the thru lane of travel at or near the intersection of Michigan Avenue/Industrial Drive in the City of Saline, County of Washtenaw, State of Michigan.

15. That for all times relevant herein, the Defendant, VINCENT E. CERBINI, operated the 2015 GMC Box Truck motor vehicle in a careless, reckless, negligent and unlawful manner eastbound in the curb lane on Michigan Avenue at or near the intersection of Michigan Avenue/Industrial Drive when he did: (1) fail to properly and timely observe a lane closure; (2) fail to lawfully activate a turn signal prior to changing lanes; (3) fail to yield right of way to vehicles already traveling in thru lane prior to a lane change; (4) unlawfully slammed brakes impeding traffic and causing a violent collision with the Plaintiff's vehicle resulting in your Plaintiff, JENNIFER BUCKINGHAM to sustain serious and permanent injuries as hereinafter alleged.

16. That it then and there became and was the duty of the Defendant, VINCENT E. CERBINI and the Defendant, HOUSTON, vicariously through the acts of its employee/agent (either ostensible/actual), to drive said motor vehicle with due care and caution in accordance with the statutes of the State of Michigan and the rules of the common law applicable to the operation of motor vehicles, but that notwithstanding said duties, Defendant, VINCENT E. CERBINI, did breach and violate the same in one or more of the following particulars:

- (a) Failing to keep proper or any lookout for traffic when Defendant knew or should have known that such failure would endanger the life and limb of other persons along and upon said highway;

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- (b) Michigan Traffic Code Violations including but not limited to sec. 2650 – lane change without observation and lane change without signal; 2820 – improper lane usage; 3050 lane change to interfere with traffic;
- (c) Disregarded traffic cloaked with the right of way and failed to yield said right-of-way to the Plaintiff's vehicle legally traveling in the thru lane prior an improper lane change and contrary to MCL 257.642 which resulted in a violent collision with Plaintiff's vehicle;
- (d) Negligently operated a motor vehicle at an unlawful rate of speed either exceeding the posted speed limit or too fast for the conditions in which existed at the time of the subject crash;
- (e) Negligently drove said motor vehicle in a distracted manner (i.e. texting, eating, drinking, navigation, radio, etc.);
- (f) Exhibiting and displaying signs of "road rage" resulting in the unlawful and reckless operation of a motor vehicle in violation of MCL 257.626
- (g) Unlawfully and negligently impeding traffic, blocking the normal flow of traffic, contrary to MCL 257.676b);
- (h) In otherwise negligently failing to exert that degree of care, caution, diligence and prudence as would be demonstrated by a reasonably prudent person under the same or similar circumstances and in otherwise causing the injuries and damages to your Plaintiff as hereinafter alleged; and
- (i) In other manners yet unknown to Plaintiff but which will become known during the course of discovery.

17. That as a direct and proximate result of the negligent acts and/or omissions on the part of the Defendant, VINCENT E. CERBINI, JENNIFER BUCKINGHAM was caused and will be caused in the future to suffer with severe, grievous and permanent personal injuries, disability, damages, serious impairment of bodily functions and permanent, serious disfigurement, the full extent and character of which are currently

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unknown but, which will include but, are not necessarily limited to the following areas of injury:

- (a) *Traumatic brain injury resulting in headaches, cognitive deficits, vision disturbance, tinnitus, vestibular difficulties, severe speech impediment;*
- (b) *Post-traumatic stress disorder resulting in an exacerbation of pre-existing depression and anxiety;*
- (c) *Injuries to the head, entire neck, back and spine including but not limited to those to the cervical and lumbar spine and discs with sequelae including but not limited to pain, disfigurement and limitation and restriction of motion;*
- (d) *Injuries to and about the entire musculoskeletal system and sequelae;*
- (e) *Any and all other manners of internal and external injuries;*
- (f) *Pain, suffering, discomfort, disability, and extreme physical and emotional suffering;*
- (g) *Severe and continuing embarrassment, humiliation, anxiety, tension and mortification;*
- (h) *Loss of the natural enjoyments of life;*
- (i) *Loss of earning capacity and excess wage loss; and*
- (j) *Fright and shock.*

18. That as a direct and proximate result of the Defendant VINCENT E. CERBINI'S reckless, negligence and unlawful conduct, Plaintiff, JENNIFER BUCKINGHAM, has been required to undergo various and certain medical and operative procedures and will be required to undergo like treatment in the future.

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WHEREFORE, Plaintiff, JENNIFER BUCKINGHAM, prays that this Honorable Court award damages against the Defendants VINCENT E. CERBINI and HOUSTON in whatever amount to which Plaintiff is found to be entitled to receive, together with costs, interest and attorney fees.

COUNT II
OWNER CONSENT LAW VIOLATION

19. Plaintiffs, JENNIFER BUCKINGHAM and JEFF BUCKINGHAM, *her husband*, hereby adopts and incorporates by reference as though fully set forth herein, each and every paragraphs/allegation set forth above in the Complaint.

20`. That upon information and belief and for all times relevant herein, the Defendant, HOUSTON, was the legal and registered lessor/owner of the 2015 GMC Box truck referenced above and being driven by the Defendant VINCENT E. CERBINI.

21. That for all times relevant herein, the Defendant HOUSTON, did permit, consent and allow the Defendant VINCENT E. CERBINI to operate said vehicle on the date of loss.

22. That for all time relevant herein, the Defendant, HOUSTON, is vicariously liable for the reckless, negligent and unlawful acts and/or omissions of the Defendant, VINCENT E. CERBINI, by virtue of the terms of the applicable Owners Liability Statute, MCL 500.3501 et seq.

WHEREFORE, Plaintiff, JENNIFER BUCKINGHAM and JEFF BUCKINGHAM, prays that this Honorable Court award damages against the Defendants VINCENT E. CERBINI and HOUSTON in whatever amount to which Plaintiff is found to be entitled to receive, together with costs, interest and attorney fees.

COUNT III
RESPONDEAT SUPERIOR

23. That Plaintiffs, JENNIFER BUCKINGHAM and JEFF BUCKINGHAM, hereby adopts and incorporates by reference each and every allegation contained in this Complaint as if more specifically set forth herein, word for word and paragraph by paragraph.

24. That upon information and belief and for all times relevant herein, the Defendant, VINCENT E. CERBINI, was/is an employee(s) and/or agent (either actual or ostensible) of the Defendant HOUSTON.

25. That for all times relevant herein, the Defendant HOUSTON did permit, allow, and require the Defendant VINCENT E. CERBINI to operate their motor vehicle on the roadways of the State of Michigan in furtherance of its business and his employment/agency relationship with the Defendant HOUSTON.

26. That for all times relevant herein, the Defendant HOUSTON did require and control the Defendant, VINCENT E. CERBINI'S, actions during his operation of the motor vehicle.

27. That for all times relevant herein, the Defendant VINCENT E. CERBINI was acting within course and scope of his employment and/or agency (either actual or ostensible) with the Defendant FOX.

28. That for all times relevant herein, the Defendant HOUSTON did receive pecuniary benefit from the Defendant VINCENT E. CERBINI operating their motor vehicle during the course and scope of her employment with the Defendant HOUSTON.

29. That for all times relevant herein and pursuant to the doctrine of *Respondeat Superior*, the Defendant HOUSTON is vicariously responsible for the negligent actions (as set forth above) of its employee/agent, Defendant VINCENT E. CERBINI.

WHEREFORE, Plaintiff, JENNIFER BUCKINGHAM and JEFF BUCKINGHAM, prays that this Honorable Court award damages against the Defendants VINCENT E. CERBINI and HOUSTON in whatever amount to which Plaintiff is found to be entitled to receive, together with costs, interest and attorney fees.

COUNT IV
NEGLIGENT ENTRUSTMENT

30. Plaintiffs, JENNIFER BUCKINGHAM and JEFF BUCKINGHAM, hereby adopts and incorporates by reference as though fully set forth herein, each and every allegation contained in this Complaint.

31. That for all times relevant herein, it was the duty of Defendant HOUSTON to exercise due care and caution in the entrustment of the subject 2015 GMC Box Truck motor vehicle, so as not to entrust the use of such motor vehicle to a driver that such Defendant knew or had reason to know was likely to drive such motor vehicle in a careless, reckless, unlawful and grossly negligent fashion.

32. That on the aforementioned date, Defendant, HOUSTON, knew or should have known that Defendant VINCENT E. CERBINI'S driving habits and driving record included numerous citations, convictions and suspensions for speeding reckless, negligent driving including alcohol related offenses and an indifference to the traffic laws.

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33. That notwithstanding that Defendant knew or had reason to know of the poor driving record and habits of Defendant, VINCENT E. CERBINI, this Defendant did entrust said motor vehicle to him for commercial use and he did drive such commercial motor vehicle in a careless, reckless, unlawful and negligent fashion as set forth in COUNT I of this Complaint, causing all such injuries, damages and losses to Plaintiff JENNIFER BUCKINGHAM, as set forth in COUNT I of this Complaint.

WHEREFORE, Plaintiff, JENNIFER BUCKINGHAM and JEFF BUCKINGHAM, prays that this Honorable Court award damages against the Defendants VINCENT E. CERBINI and HOUSTON in whatever amount to which Plaintiff is found to be entitled to receive, together with costs, interest and attorney fees.

COUNT V
LOSS OF CONSORTIUM

34. That the Plaintiffs, JENNIFER BUCKINGHAM and JEFF BUCKINGHAM, hereby adopts and incorporates by reference as though fully set forth herein, each and every allegation contained in this Complaint.

35. That for all times material herein, this Plaintiff, JEFF BUCKINGHAM, was and is the lawful husband of Plaintiff, JENNIFER BUCKINGHAM.

36. That as a direct and proximate result of the injuries and damages sustained by this Plaintiff's wife, this Plaintiff has been deprived of the aid, comfort, support and society of JENNIFER BUCKINGHAM in her hour of need and has had to care for her injuries and has suffered and will continue to suffer an interference with those rights known as "consortium".

WHEREFORE, Plaintiff, JENNIFER BUCKINGHAM and JEFF BUCKINGHAM, prays that this Honorable Court award damages against the Defendants VINCENT E. CERBINI and HOUSTON in whatever amount to which Plaintiff is found to be entitled to receive, together with costs, interest and attorney fees.

THE SAM BERNSTEIN LAW FIRM, PLLC

By: /s/ Joseph J. Ceglarek, II

JOSEPH J. CEGLAREK II (P56791)

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Dated: August 28, 2020

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JURY DEMAND

NOW COMES the Plaintiffs, JENNIFER BUCKINGHAM and JEFF BUCKINGHAM, *her husband*, by and through their attorneys, THE SAM BERNSTEIN LAW FIRM, PLLC, by JOSEPH J. CEGLAREK II, and hereby respectfully requests a trial by jury in the above-entitled cause of action.

THE SAM BERNSTEIN LAW FIRM, PLLC

By: /s/ Joseph J. Ceglarek, II
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